



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

BAKER BOTTS L.L.P.
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN TX 78701-

MAILED
FROM DIRECTOR'S OFFICE

JAN 13 2006

TECHNOLOGY CENTER 3600

In re Application of : DECISION ON PETITION
Jennifer L. Alvarez et al. : TO WITHDRAW THE
Application No. 10/789,757 : HOLDING OF ABANDONMENT
Filed: February 27, 2004 :
For: METHOD FOR DELIVERING SECONDARY (NON-LOCATION) DATA TO A
GPS RECEIVER

This is in reply to the petition filed in the United States Patent and Trademark Office (USPTO) on June 01, 2005. This petition is being treated as a petition to withdraw the holding of abandonment. There is no fee for this petition.

The petition is DISMISSED.

A review of the file record indicates that the application was held abandoned for failure to timely respond to the Office action mailed September 10, 2004, which set a three-month extendable period for response. A Notice of Abandonment was mailed on April 26, 2005 stating that no reply had been received.

Petitioner contends that a response to the September 10, 2004 Office action was timely filed on December 09, 2004. The petition provides both a stamped post card receipt and an Express Mail label as evidence of the December 09, 2004 response.

The post card receipt is illegible and thus fails to accord the December 09, 2004 date to the copy of the response submitted with this petition.

The requirements for filing a grantable petition in the case of a correspondence mailed using "Express Mail" and never received by the Office are outlined in 37 CFR 1.10(e) and include the following:

- (A) Be filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
- (B) Include a showing that the "Express Mail" mailing label was placed on each piece of correspondence prior to original mailing;
- (C) Include a true copy of the originally deposited correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned post card receipt, a copy of the "Express Mail" mailing label showing the "date-in" or other official notation entered by the USPS; and

(D) Include a statement, signed by the person who deposited the documents as "Express Mail" with the USPS, setting forth the date and time of deposit, and declaring that the copies of the correspondence, "Express Mail" mailing label, and returned postcard receipt accompanying the petition are true copies of the correspondence, mailing label and returned postcard receipt originally mailed or received.

In this case, applicant's petition lacks item (D) above. A statement signed by the person who signed the Express Mail receipt, in this case Amanda Guido, attesting on a personal knowledge basis to the timely transmission of the response on the date indicated on the Express Mail receipt is required.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

RAR for _____

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/rjc 08/31/05